

ASSEMBLY BILL

No. 904

Introduced by Assembly Member Lowenthal

February 20, 2003

An act to amend Section 457.1 of the Penal Code, relating to arson.

LEGISLATIVE COUNSEL'S DIGEST

AB 904, as introduced, Lowenthal. Arson: registration.

Existing law requires a person convicted in this state of arson, as defined, on or after November 30, 1994, to register with the chief of police or sheriff of the jurisdiction in which the person is residing within a specified period after changing his or her residence. A violation of this provision is a crime.

This bill would, in addition, require a person to register as an arsonist if the person is convicted, on or after January 1, 2004, in any other state, federal, or military court, of any offense that if committed or attempted in this state would have been punishable as arson, or if the person has been ordered by any other court to register as an arsonist. By requiring local agencies to register new offenders and by expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 457.1 of the Penal Code is amended to
2 read:

3 457.1. (a) As used in this section, “arson” means a violation
4 of Section 451, 451.5, or 453, and attempted arson, which
5 includes, but is not limited to, a violation of Section 455.

6 (b) (1) Every person described in paragraph (2), (3), ~~and~~ (4),
7 or (5) for the periods specified therein, shall, while residing in, or
8 if the person has no residence, while located in California, be
9 required to, within 14 days of coming into, or changing the
10 person’s residence or location within any city, county, city and
11 county, or campus wherein the person temporarily resides, or if the
12 person has no residence, is located:

13 (A) Register with the chief of police of the city where the
14 person is residing, or if the person has no residence, where the
15 person is located.

16 (B) Register with the sheriff of the county where the person is
17 residing, or if the person has no residence, where the person is
18 located in an unincorporated area or city that has no police
19 department.

20 (C) In addition to (A) or (B) above, register with the chief of
21 police of a campus of the University of California, the California
22 State University, or community college where the person is
23 residing, or if the person has no residence, where the person is
24 located upon the campus or any of its facilities.

25 (2) Any person who, on or after November 30, 1994, is
26 convicted in any court in this state of arson or attempted arson shall
27 be required to register, in accordance with the provisions of this
28 section, for the rest of his or her life.

29 (3) Any person who, having committed the offense of arson or
30 attempted arson, and after having been adjudicated a ward of the
31 juvenile court on or after January 1, 1993, is discharged or paroled



from the Department of the Youth Authority shall be required to register, in accordance with the provisions of this section, until that person attains the age of 25 years, or until the person has his or her records sealed pursuant to Section 781 of the Welfare and Institutions Code, whichever comes first.

(4) Any person convicted of the offense of arson or attempted arson on or after January 1, 1985, through November 29, 1994, inclusive, in any court of this state, shall be required to register, in accordance with the provisions of this section, for a period of five years commencing, in the case where the person was confined for the offense, from the date of their release from confinement, or in the case where the person was not confined for the offense, from the date of sentencing or discharge, if that person was ordered by the court at the time that person was sentenced to register as an arson offender. The law enforcement agencies shall make registration information available to the chief fire official of a legally organized fire department or fire protection district having local jurisdiction where the person resides.

(5) *Any person who is convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subdivision (a), or any person ordered by any other court, including any state, federal, or military court, to register as an arsonist.*

(c) Any person required to register pursuant to this section who is discharged or paroled from a jail, prison, school, road camp, or other penal institution, or from the Department of the Youth Authority where he or she was confined because of the commission or attempted commission of arson, shall, prior to the discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement. The official shall require the person to read and sign the form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall, not later than 45 days prior to the scheduled

1 release of the person, send one copy to the appropriate law
2 enforcement agency having local jurisdiction where the person
3 expects to reside upon his or her discharge, parole, or release; one
4 copy to the prosecuting agency that prosecuted the person; one
5 copy to the chief fire official of a legally organized fire department
6 or fire protection district having local jurisdiction where the
7 person expects to reside upon his or her discharge, parole, or
8 release; and one copy to the Department of Justice. The official in
9 charge of the place of confinement shall retain one copy. All forms
10 shall be transmitted in time so as to be received by the local law
11 enforcement agency and prosecuting agency 30 days prior to the
12 discharge, parole, or release of the person.

13 (d) All records relating specifically to the registration in the
14 custody of the Department of Justice, law enforcement agencies,
15 and other agencies or public officials shall be destroyed when the
16 person required to register under this subdivision for offenses
17 adjudicated by a juvenile court attains the age of 25 years or has
18 his or her records sealed under the procedures set forth in Section
19 781 of the Welfare and Institutions Code, whichever event occurs
20 first. This subdivision shall not be construed to require the
21 destruction of other criminal offender or juvenile records relating
22 to the case that are maintained by the Department of Justice, law
23 enforcement agencies, the juvenile court, or other agencies and
24 public officials unless ordered by the court under Section 781 of
25 the Welfare and Institutions Code.

26 (e) Any person who is required to register pursuant to this
27 section who is released on probation or discharged upon payment
28 of a fine shall, prior to the release or discharge, be informed of his
29 or her duty to register under this section by the probation
30 department of the county in which he or she has been convicted,
31 and the probation officer shall require the person to read and sign
32 the form as may be required by the Department of Justice, stating
33 that the duty of the person to register under this section has been
34 explained to him or her. The probation officer shall obtain the
35 address where the person expects to reside upon his or her release
36 or discharge and shall report within three days the address to the
37 Department of Justice. The probation officer shall give one copy
38 of the form to the person, and shall send one copy to the
39 appropriate law enforcement agency having local jurisdiction
40 where the person expects to reside upon his or her discharge or



1 release, one copy to the prosecuting agency that prosecuted the
2 person, one copy to the chief fire official of a legally organized fire
3 department or fire protection district having local jurisdiction
4 where the person expects to reside upon his or her discharge or
5 release, and one copy to the Department of Justice. The probation
6 officer shall also retain one copy.

7 (f) The registration shall consist of (1) a statement in writing
8 signed by the person, giving the information as may be required
9 by the Department of Justice, and (2) the fingerprints and
10 photograph of the person. Within three days thereafter, the
11 registering law enforcement agency shall electronically forward
12 the statement, fingerprints, and photograph to the Department of
13 Justice.

14 (g) If any person required to register by this section changes his
15 or her residence address, he or she shall inform, in writing within
16 10 days, the law enforcement agency with whom he or she last
17 registered of his or her new address. The law enforcement agency
18 shall, within three days after receipt of the information,
19 electronically forward it to the Department of Justice. The
20 Department of Justice shall forward appropriate registration data
21 to the law enforcement agency having local jurisdiction of the new
22 place of residence.

23 (h) Any person required to register under this section who
24 violates any of the provisions thereof is guilty of a misdemeanor.
25 Any person who has been convicted of arson or attempted arson
26 and who is required to register under this section who willfully
27 violates any of the provisions thereof is guilty of a misdemeanor
28 and shall be sentenced to serve a term of not less than 90 days nor
29 more than one year in a county jail. In no event does the court have
30 the power to absolve a person who willfully violates this section
31 from the obligation of spending at least 90 days of confinement in
32 a county jail and of completing probation of at least one year.

33 (i) Whenever any person is released on parole or probation and
34 is required to register under this section but fails to do so within
35 the time prescribed, the Board of Prison Terms, the Department of
36 the Youth Authority, or the court, as the case may be, shall order
37 the parole or probation of that person revoked.

38 (j) The statements, photographs, and fingerprints required by
39 this section shall not be open to inspection by the public or by any

1 person other than a regularly employed peace officer or other law
2 enforcement officer.

3 (k) In any case in which a person who would be required to
4 register pursuant to this section is to be temporarily sent outside the
5 institution where he or she is confined on any assignment within
6 a city or county, including, but not limited to, firefighting or
7 disaster control, the local law enforcement agency having
8 jurisdiction over the place or places where that assignment shall
9 occur shall be notified within a reasonable time prior to removal
10 from the institution. This subdivision shall not apply to any person
11 temporarily released under guard from the institution where he or
12 she is confined.

13 (l) Nothing in this section shall be construed to conflict with
14 Section 1203.4 concerning termination of probation and release
15 from penalties and disabilities of probation.

16 A person required to register under this section may initiate a
17 proceeding under Chapter 3.5 (commencing with Section
18 4852.01) of Title 6 of Part 3 and, upon obtaining a certificate of
19 rehabilitation, shall be relieved of any further duty to register
20 under this section. This certificate shall not relieve the petitioner
21 of the duty to register under this section for any offense subject to
22 this section of which he or she is convicted in the future.

23 Any person who is required to register under this section due to
24 a misdemeanor conviction shall be relieved of the requirement to
25 register if that person is granted relief pursuant to Section 1203.4.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution for
28 certain costs that may be incurred by a local agency or school
29 district because in that regard this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

35 However, notwithstanding Section 17610 of the Government
36 Code, if the Commission on State Mandates determines that this
37 act contains other costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made
39 pursuant to Part 7 (commencing with Section 17500) of Division
40 4 of Title 2 of the Government Code. If the statewide cost of the

1 claim for reimbursement does not exceed one million dollars
2 (\$1,000,000), reimbursement shall be made from the State
3 Mandates Claims Fund.

O

